

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

**SNL WORKFORCE FREEDOM
ALLIANCE, DAVID PETERSON, JON
BROOKS, ANNA BURNS, JOHN DOE
#1, JANE DOE #1,** § Case No. 1:22-cv-00001-KWR-SCY
Plaintiffs, §
v. §
**NATIONAL TECHNOLOGY AND
ENGINEERING SOLUTIONS OF
SANDIA LLC d/b/a SANDIA NAT'L
LABORATORIES, HONEYWELL
INTERNAT'L, INC.,** § DECLARATION OF MICHAEL
§ WEIL IN SUPPORT OF NATIONAL
§ TECHNOLOGY AND
§ ENGINEERING SOLUTIONS OF
§ SANDIA LLC'S OPPOSITION TO
§ REQUEST FOR TEMPORARY
§ RESTRAINING ORDER
Defendants. §

DECLARATION OF MICHAEL WEIL

I, Michael Weil, declare and state as follows:

1. I am a partner with the law firm of Morgan, Lewis & Bockius LLP, counsel of record for National Technology and Engineering Solutions of Sandia, LLC (“NTESS”). I am duly licensed to practice in all state and federal courts in the State of California. The following facts are true of my own personal knowledge and, if called upon to do so, I could and would testify to them.

2. On January 6, 2022, I spoke with Plaintiffs’ counsel, Warren Norred, Jonathan Diener, and Ana Garner. During this call, I noted that NTESS had paused its vaccination requirement due to the injunction halting enforcement of Executive Order No. 14042. Because of this, I explained that there was no longer any case or controversy and asked the Plaintiffs to dismiss their Complaint without prejudice. Plaintiffs’ counsel declined, arguing that the lawsuit also apparently challenges NTESS’s implementation of other COVID-19 safety policies, such as

testing requirements for unvaccinated employees. A copy of my email correspondence with Plaintiffs' counsel discussing these issues is attached hereto as **Exhibit A**.

I declare under penalty of perjury under the laws the United States of America that the foregoing is true and correct.

Executed on January 18, 2022

/s/Michael D. Weil
Michael Weil

From: Weil, Michael D.
Sent: Wednesday, January 12, 2022 5:26 PM
To: Warren Norred
Cc: Jonathan Diener; garnerlaw@yahoo.com; Fellion, Andrea
Subject: RE: SNL Workforce Freedom Alliance v. NTESS

Warren,

To answer your question, the current plan for NTESS's testing policy that will be effective January 18 with respect to unvaccinated employees is as follows: Consistent with the Safer Workforce Task Force guidance and FAQs, all unvaccinated employees who come onsite will be required to have taken a Covid-19 test sometime within seven days before coming onsite and have a negative result to come onsite. Unvaccinated employees whose jobs or management require regular onsite work will be tested weekly.

As I mentioned, NTESS's testing policy is not a subject of this lawsuit as framed by the pleadings and plaintiffs' motion and, therefore, it is irrelevant. NTESS's vaccine policy was the only issue in dispute. NTESS has changed that policy, so that dispute is moot. Please let us know this week whether your clients will dismiss the motion for TRO and/or this lawsuit.

Regards,

Michael

Michael D. Weil

Morgan, Lewis & Bockius LLP

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From: Warren Norred <wnorred@norredlaw.com>
Sent: Friday, January 7, 2022 11:42 AM
To: Weil, Michael D. <michael.weil@morganlewis.com>
Cc: Jonathan Diener <jonmdiener@gmail.com>; garnerlaw@yahoo.com; Fellion, Andrea <andrea.fellion@morganlewis.com>
Subject: Re: SNL Workforce Freedom Alliance v. NTESS

[EXTERNAL EMAIL]

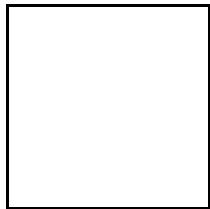
Michael, it would be helpful to know what the testing protocol and policy will be, even if it is not negotiable. If it's easy to work with and isn't a weekly PCR test, then there may be room to avoid any immediate injunctive relief. I am

not couching our response one way or the other, but if you know what the policy will be, it would assist our discussions.

Thank you,
Warren

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Contact us for matters involving Intellectual Property, Business Needs, Bankruptcy, and Wills & Estates. Licensed to practice before the United States Patent and Trademark Office, all state and federal courts in Texas, the Federal Circuit, and the Supreme Court of the United States.



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On Fri, Jan 7, 2022 at 12:57 PM Weil, Michael D. <michael.weil@morganlewis.com> wrote:

Counsel,

Thank you for speaking with us yesterday. As discussed, National Technology and Engineering Solutions of Sandia, LLC (“NTESS”) has paused its COVID-19 vaccination requirement because of the injunction halting enforcement of the Executive Order 14042. It is NTESS’s intention to follow the developments of the legal proceedings impacting the Executive Order. NTESS’s decision to pause its vaccine requirement effectively moots Plaintiffs’ Complaint and Motion as there is no longer any case or controversy, and I asked Plaintiffs to withdraw their Motion and dismiss their Complaint without prejudice.

You declined to do so citing various grounds, including that the lawsuit apparently is also challenging NTESS's implementation of other COVID-19 safety policies, such as its testing requirements for unvaccinated employees. You asked whether NTESS will also change those policies. NTESS declines to negotiate its COVID-19 safety policies. The only issue fairly presented by the pleadings and Plaintiffs' injunction papers is Plaintiffs' challenge to NTESS's vaccine requirement. NTESS's change to that vaccine policy has rendered this dispute moot, which is an argument we will present to the Court.

It would be a waste of the Court's and parties' time to continue forward with Plaintiffs' motion challenging NTESS' vaccine requirement because that issue has been rendered moot. Please let us know by Monday, January 10 if Plaintiffs will withdraw their motion and lawsuit.

Feel free to call me if you have any questions or wish to discuss further.

Regards,

Michael

Michael D. Weil

Morgan, Lewis & Bockius LLP

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